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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
32/122,862	07/95	MELT	2400001PC0

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EXAMINER
JOHNSON, L

ART UNIT
01

PAPER NUMBER

06/25/97

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/482,862

Applicant(s)

Meli et al

Examiner

Linda B. Johnson

Group Art Unit

3201



☒ Responsive to communication(s) filed on Feb 24, 1997

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 9 - 34 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 9 - 34 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 8

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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Response to Amendment

1. In view of the amendment filed February 24, 1997, the objections to the Abstract and the Specification of the previous Office action are hereby withdrawn.

Terminal Disclaimer

2. The Terminal Disclaimer filed February 24, 1997 is not proper and has not been accepted for the following reason:

The numbers of the patents which form the basis for the double patenting rejection are incorrect. U.S. Patent Numbers 5,440,860 and 5,112,632 form the basis of the double patenting rejection. Applicant has inserted the Serial Number of the instant case (08/482,862) in the Terminal Disclaimer.

Double Patenting

3. Claims 9-34 are rejected under the judicially created doctrine of double patenting over claims 1-13 of **U.S. Patent No. 5,440,860** for the reasons set forth in the previous Office action.

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4. Claims 9-34 are rejected under the judicially created doctrine of double patenting over claims 1 & 18 of **U.S. Patent No. 5,112,632** for the reasons set forth in the previous Office action.

Response to Arguments

5. Applicant's arguments filed February 24, 1997 have been fully considered but they are not persuasive. The Terminal Disclaimer is not proper. See explanation above. A new terminal disclaimer in compliance with 37 CFR 1.321(b) and © may be used to overcome the rejection based on non-statutory double patenting. See 37 CFR 1.78(d).

Conclusion


6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire THREE MONTHS from the date of this action. In the event a first response is filed within TWO MONTHS of the mailing date of this final action and the advisory action

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is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Johnson whose telephone number is (703) 308-1888.


LINDA JOHNSON
PRIMARY EXAMINER
GROUP 3200

lbj
06/23/97